

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 8:07CR323 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | TENTATIVE FINDINGS |
| |) | |
| ROBERT HEATHER, |) | |
| |) | |
| Defendant. |) | |

The Court has received the Presentence Investigation Report ("PSR") in this case and the Defendant's objections (Filing No. 36). The government adopted the PSR. (Filing No. 35.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant's "objections" are a motion for deviation and a sentence at the low end of the guidelines based on alleged over statement of the Defendant's criminal history. The motion will be heard at sentencing.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;
4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and
5. The Defendant's motion for a deviation from the guideline range, filed as "objections" (Filing No. 36), will be heard at sentencing.

DATED this 24th day of April, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge